

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

**WALTER KIDDE PORTABLE
EQUIPMENT INC.,**

Plaintiff,

v.

**FIRST ALERT, INC. and BRK BRANDS,
INC.,**

Defendants.

Civil Action No. 6.22-cv-566-ADA-DTG

JURY TRIAL DEMANDED

PLAINTIFF'S FIRST SUPPLEMENTAL INITIAL DISCLOSURES

Plaintiff Walter Kidde Portable Equipment Inc. ("Plaintiff" or "Kidde"), by and through its counsel, provides these First Supplemental Initial Disclosures to Defendants First Alert, Inc. and BRK Brands, Inc. (together, "Defendants" or "First Alert") pursuant to Rule 26(a) of the Federal Rules of Civil Procedure, the Court's Standing Order Governing Proceedings (OGP) 4.2—Patent Cases (filed September 16, 2022) (the "Court's OGP's"), and the Scheduling Order (Dkt. No. 25).

These disclosures are provided based upon information that is reasonably available to Kidde at the present time. Because Kidde's investigation, research, and analysis of the facts and issues in this case are ongoing, these First Supplemental Initial Disclosures will be supplemented as more information becomes known to Kidde. By making these disclosures, Kidde does not represent that it is identifying every document, item of electronically stored information, tangible thing, or witness that might be relevant to the claims and defenses in this action. Rather, Kidde's disclosures represent a good faith effort to identify information that Kidde reasonably believes to be relevant to its claims and defenses. Therefore, Kidde reserves the right to amend, modify, supplement or update these disclosures, particularly pursuant to Federal Rule of Civil Procedure

26(e)(1), the Local Rules, the Court's OGP's, the Scheduling Order, and any other applicable order of the Court.

I. THE NAME AND, IF KNOWN, THE ADDRESS AND TELEPHONE NUMBER OF EACH INDIVIDUAL LIKELY TO HAVE DISCOVERABLE INFORMATION — ALONG WITH THE SUBJECTS OF THAT INFORMATION — THAT THE DISCLOSING PARTY MAY USE TO SUPPORT ITS CLAIMS OR DEFENSES, UNLESS THE USE WOULD BE SOLELY FOR IMPEACHMENT

Kidde identifies the following individuals as likely to have discoverable information that Kidde may use to support its claims or defenses. This list does not include expert witnesses who will be disclosed in accordance with the Court's orders. Persons currently or formerly employed by Kidde must be contacted through Kidde's outside counsel. Kidde's disclosures are not an admission that these individuals' testimony would be admissible or that discovery may properly be sought from them consistent with Rule 26. In making these disclosures, Kidde does not waive its right to object to discovery of information from any of these individuals, or any other individuals, including by deposition or otherwise.

Name	Contact Information (if known)	Discoverable Information
Jason M. Sharpe	Contact through Kidde counsel	Inventorship of the claimed '158 and '445 Patent subject matter, including conception and reduction to practice; the prosecution and ownership of the '158 and '445 Patents; the state of the art at the filing of the '158 and '445 Patents; commercial embodiments of the claimed '158 and '445 Patent subject matter.
Joseph G. Deluca	Unknown	On information and belief, Inventorship of the claimed '158 and '445 Patent subject matter, including conception and reduction to practice; the prosecution and ownership of the '158 and '445 Patents; commercial embodiments of the claimed '158 and '445 Patent subject matter;

Name	Contact Information (if known)	Discoverable Information
		Defendants' infringement of the '158 and '445 Patents; the design and development of accused products.
Rodney W. Scuka	Contact through Kidde counsel	Inventorship of the claimed '128 Patent subject matter, including conception and reduction to practice; the prosecution and ownership of the '128 Patent; the state of the art at the filing of the '128 Patent; commercial embodiments of the claimed subject matter.
Timothy D. Kaiser	Contact through Kidde counsel	Inventorship of the claimed '128 Patent subject matter, including conception and reduction to practice; the prosecution and ownership of the '128 Patent; the state of the art at the filing of the '128 Patent; commercial embodiments of the claimed subject matter.
Paul J. Baker	Unknown	On information and belief, Inventorship of the claimed '128 Patent subject matter, including conception and reduction to practice; the prosecution and ownership of the '128 Patent; the state of the art at the filing of the '128 Patent; commercial embodiments of the claimed subject matter.
Michael T. Harkins	Unknown	On information and belief, Inventorship of the claimed '828 Patent subject matter, including conception and reduction to practice; the prosecution and ownership of the '828 Patent; the state of the art at the filing of the '828 Patent; commercial embodiments of the claimed subject matter.
Bradley B. Barnes	Unknown	On information and belief, Inventorship of the claimed '828 Patent subject matter, including conception and reduction to practice; the prosecution and ownership of the '828 Patent; the state of the art at the filing of the '828 Patent; commercial

Name	Contact Information (if known)	Discoverable Information
		embodiments of the claimed subject matter.
Bernard Soto	Defendants' Employee. Contact through Defendants' counsel	On information and belief, Defendants' infringement of the asserted patents, including the making, importation, sales, distribution, structure, function and operation of the accused products.
Eber Enriquez	Defendants' Employee. Contact through Defendants' counsel	On information and belief, Defendants' infringement of the asserted patents, including the design, development, manufacture, structure, function and operation of the accused products.
Jose Salcido	Defendants' Former Employee. Contact through Defendants' counsel	On information and belief, Defendants' infringement of the asserted patents, including the design, orientation and operation of components in the accused products.
Sharon Shen	Defendants' Employee. Contact through Defendants' counsel	On information and belief, Defendants' infringement of the asserted patents, including the software in the accused products and their operation.
Aurora Orozco	Defendants' Employee. Contact through Defendants' counsel	On information and belief, Defendants' infringement of the asserted patents, including importation of the accused products into the United States, manufacturing and assembly of the accused products, the sale and distribution of the accused products in the United States.
Paul Singh	Employee of Defendants' and/or Defendants' Parent Company. Contact through Defendants' counsel	On information and belief, Defendants' infringement of the asserted patents, including the marketing, offer for sale, sales and distribution of the accused products.
Kartik Iyer	Contact through Kidde counsel	The structure, function and operation of Kidde commercial embodiments of the asserted patents.
Kimber Jones	Contact through Kidde counsel	Product management for Kidde commercial embodiments of the asserted patents

Name	Contact Information (if known)	Discoverable Information
Jason Eastman	Contact through Kidde counsel	Sales and marketing for Kidde commercial embodiments of the asserted patents, competition in the market
Microchip Technology Inc.	2355 West Chandler Blvd. Chandler, Arizona 85224 (480) 792-7200	On information and belief, information concerning the microprocessors and/or microcontrollers used in the Defendants' products accused of infringing the '128 and '828 Patents.
Texas Instruments Incorporated	12500 TI Blvd. Dallas, Texas 75243 (855) 226-3113	On information and belief, information concerning the microprocessors and/or microcontrollers used in Kidde products covered by the '128 and '828 Patents.

Other individuals currently and previously employed by or associated with Defendants, may have discoverable information concerning all issues pending in this litigation, including but not limited to issues related to the design, operation, marketing and sales of the accused products.

In addition to the above-listed individuals, Kidde incorporates by reference the individuals disclosed by any other party to this case as if fully set forth herein.

Kidde additionally intends to retain expert witnesses to testify on claims and defenses, including validity, infringement, and damages issues. Kidde reserves the right to call a corporate representative at trial.

II. A COPY — OR A DESCRIPTION BY CATEGORY AND LOCATION — OF ALL DOCUMENTS, ELECTRONICALLY STORED INFORMATION, AND TANGIBLE THINGS THAT THE DISCLOSING PARTY HAS IN ITS POSSESSION, CUSTODY, OR CONTROL AND MAY USE TO SUPPORT ITS CLAIMS OR DEFENSES, UNLESS THE USE WOULD BE SOLELY FOR IMPEACHMENT

Kidde provides below a description by category and location of documents in its possession, custody, or control that it currently believes it may use to support its claims and/or

defenses. Unless otherwise specified, all such materials are located at the offices of Kidde or at the offices of Kidde's counsel: Fish & Richardson P.C.

By providing the following description of documents, Kidde does not waive its right to refrain from the production of any document in its possession, custody, or control based on grounds of attorney-client privilege or work product immunity, or both, or which Kidde is prohibited from producing by reason of a confidentiality agreement, or where production of such document would otherwise be unlawful. Kidde retains the right to object to any request for production which is overly broad, unduly burdensome, or seeks the production of documents that are not relevant to a claim or defense or not proportional to the needs of the case.

Subject to the foregoing, Kidde identifies the following categories of documents:

Category	Location
Documents regarding the design of the accused products.	First Alert
Documents regarding the development of the accused products.	First Alert
Documents regarding the marketing of the accused products.	First Alert
Documents regarding the sales of the accused products.	First Alert
Documents regarding the financial information of Defendants.	First Alert
Documents regarding the corporate structure of Defendants.	First Alert
Documents regarding prior art for the patents-in-suit.	First Alert, Kidde
Documents regarding the patents-in-suit and the file histories of same.	Kidde
Documents regarding the ownership, assignment records, and transfer of ownership for the patents-in-suit.	Kidde
Documents regarding the products embodying the patents-in-suit, including documents regarding sales of those products and	First Alert, Kidde

competition with Defendants.	
Documents evidencing secondary considerations of non-obviousness of the patents-in-suit, including but not limited to Defendants/third-party documents and reports on the importance of the patented inventions and/or the value of Kidde's patented technology.	First Alert, Kidde
Documents regarding the corporate structure of Kidde.	Kidde

III. A COMPUTATION OF EACH CATEGORY OF DAMAGES CLAIMED BY THE DISCLOSING PARTY — WHO MUST ALSO MAKE AVAILABLE FOR INSPECTION AND COPYING AS UNDER RULE 34 THE DOCUMENTS OR OTHER EVIDENTIARY MATERIAL, UNLESS PRIVILEGED OR PROTECTED FROM DISCLOSURE, ON WHICH EACH COMPUTATION IS BASED, INCLUDING MATERIALS BEARING ON THE NATURE AND EXTENT OF INJURIES SUFFERED

Kidde seeks damages as allowed by law and statute, including damages adequate to compensate Kidde for Defendants' infringement, including lost profits, or, at a minimum, a reasonable royalty for all infringing sales, in addition to prejudgment and post-judgment interest, an accounting, an award for enhanced damages for willful infringement, and a ruling that the case is exceptional such that an award of attorneys' fees is appropriate. Kidde also seeks injunctive relief.

The litigation is ongoing and discovery as to the number of potentially infringing sales has not yet been completed. Therefore, Kidde does not yet have a computation of these damages, fees and costs. Kidde will provide computations of such damages consistent with the Federal Rules of Civil Procedure, the Court's Local Rules, the Court's OGP's, and the Scheduling Order.

IV. FOR INSPECTION AND COPYING AS UNDER RULE 34, ANY INSURANCE AGREEMENT UNDER WHICH AN INSURANCE BUSINESS MAY BE LIABLE TO SATISFY ALL OR PART OF A POSSIBLE JUDGMENT IN THE ACTION OR TO INDEMNIFY OR REIMBURSE FOR PAYMENTS MADE TO SATISFY THE JUDGMENT

Kidde is not aware of the existence of any insurance agreement under which an insurance business may be liable to satisfy part or all of a judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment.

Kidde reserves the right to supplement these First Supplemental Initial Disclosures through, among other means, subsequent interrogatory responses, document production, and responses to requests for admission.

Dated: March 6, 2023

Respectfully submitted,

FISH & RICHARDSON P.C.

By: /s/ Michael F. Autuoro

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**ATTORNEYS FOR PLAINTIFF,
WALTER KIDDE PORTABLE EQUIPMENT INC.**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on March 6, 2023, the foregoing document was served electronically to all counsel of record.

/s/ Michael F. Autuoro

Michael F. Autuoro